

CHAPTER 21  
IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

[Prior to 5/6/87, Employment Security[370]Ch 8]

**581—21.1(97B) Organization.** The Iowa public employees' retirement system was created by Iowa Code chapter 97B.

**21.1(1) Definitions.** Unless otherwise prescribed by federal or state regulations, the terms used in this chapter shall have the following meanings:

“*Board*” means the investment board of IPERS established in Iowa Code section 97B.8.

“*Chief benefits officer*” means the person employed by the director to administer the benefits programs of the retirement system.

“*Chief investment officer*” means the person employed by the director to administer the investment program of the retirement system.

“*Department*” means the Iowa department of personnel.

“*Director*” means the director of the Iowa department of personnel.

“*Internal Revenue Code*” means the Internal Revenue Code as defined in Iowa Code section 422.3.

“*IPERS*” means the Iowa public employees' retirement system.

**21.1(2) Administration.** The director, through the chief investment officer and the chief benefits officer, shall administer Iowa Code chapters 97, 97B, and 97C, shall execute contracts on behalf of IPERS, shall make expenditures, reports, and investigations as necessary to carry out the powers and duties created in Iowa Code chapter 97B, and may obtain as necessary the specialized services of individuals or organizations on a contract-for-services basis.

**21.1(3) Location.** IPERS' business address is 600 East Court Avenue, Des Moines, Iowa. General correspondence, inquiries, requests for information or assistance, complaints, or petitions shall be addressed to: Iowa Public Employees' Retirement System, P.O. Box 9117, Des Moines, Iowa 50306-9117.

**21.1(4) Business hours.** Business hours are 8 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays.

**21.1(5) Investment board.**

*a.* The board shall meet annually, and may meet more often, to review its investment policies. Future meeting dates shall be set by members of the board at the end of each meeting.

*b.* At the first meeting in each fiscal year, the voting members shall elect a chair and vice-chair.

*c.* The principal place of business of the investment board is located at 600 East Court Avenue, Des Moines, Iowa.

*d.* Advance notice of time, date, tentative agenda, and place of each meeting shall be given in compliance with Iowa Code chapter 21.

*e.* Parties wishing to present items for the board's agenda for its next meeting shall file a written request with IPERS at least five workdays prior to the meeting. The board may take up matters not included on its agenda.

*f.* Quorum. Five members eligible to vote shall constitute a quorum. A simple majority vote of the full voting membership shall be the vote of the board.

*g.* In the event that it should become necessary to fill the chief investment officer position, the board may consult with, and make hiring recommendations to, the director.

**581—21.2(97B) Records to be kept by the employer.**

**21.2(1) Definition.** Each employing unit shall maintain records to show the information hereinafter indicated. Records shall be kept in the form and manner prescribed by IPERS. Records shall be open to inspection and may be copied by IPERS and its authorized representatives at any reasonable time.

**21.2(2)** *Records shall show with respect to each employee:* the employee's name, address and social security account number; each date the employee was paid wages or other wage equivalent (e.g., room, board); the total amount of wages paid on each date including noncash wage equivalents; the total amount of wages including wage equivalents on which IPERS contributions are payable; and the amount withheld from wages or wage equivalents for the employee's share of IPERS contributions.

Effective January 1, 1995, records will show, with respect to each employee, member contributions picked up by the employer.

**21.2(3)** *Reports.* Each employing unit shall make reports as IPERS may require, and shall comply with the instructions printed upon any report form issued by IPERS pertaining to the preparation and return of the report. Effective July 1, 1991, employers must report all terminating employees to IPERS within seven working days following the employee's termination date. This report to IPERS shall contain the employee's last-known mailing address and such other information as IPERS might require.

**21.2(4)** *Fees.* IPERS may assess to an employer a fee based on IPERS' cost accrued in correcting an employer's errors if an employer fails to file required documents and remittances accurately.

This rule is intended to implement Iowa Code sections 97B.11, 97B.14 and 97B.53A.

### **581—21.3(97B) Liable employers.**

**21.3(1)** *Definition.* All public employers in the state of Iowa, its cities, counties, townships, agencies, political subdivisions, instrumentalities and public schools are required to participate in IPERS. For the purposes of these rules, the following more specific definitions also apply:

*a. "Political subdivision"* means a geographic area or territorial division of the state which has responsibility for certain governmental functions. Political subdivisions are characterized by public election of officers and taxing powers. The following examples are representative: municipalities, counties, school districts, drainage districts, and utilities.

*b. "Instrumentality of the state or a political subdivision"* means an independent entity that is organized to carry on some specific function of government. Public instrumentalities are created by some form of governmental body, including federal and state statutes and regulations, and are characterized by being under the control of a governmental body. Such control may include final budgetary authorization, general policy development, appointment of a board by a governmental body, and allocation of funds.

*c. "Public agency"* means state agencies and agencies of political subdivisions. Representative examples include an executive board, commission, bureau, division, office, or department of the state or a political subdivision.

*d.* Effective July 1, 1994, the definition of employer includes an area agency on aging that does not offer an alternative plan to all of its employees that is qualified under the federal Internal Revenue Code.

Some employers included are: the state of Iowa and its administrative agencies; counties, including their hospitals and county homes; cities, including their hospitals, park boards and commissions; recreation commissions; townships; public libraries; cemetery associations; municipal utilities including waterworks, gasworks, electric light and power; school districts including their lunch and activity programs; state colleges and universities; and state hospitals and institutions. Any employing unit not already reporting to IPERS which fulfills the conditions with respect to becoming an employer shall immediately give notice to IPERS of that fact. Such notice shall set forth the name and address of the employing unit.

**21.3(2)** *Name change.* Any employing unit which has a change of name, address, title of the unit, its reporting official or any other identifying information shall immediately give notice in writing to IPERS. The notice shall include the former name, address and IPERS account number of the employing unit, the new name and address of the employing unit and the reason for the change if other than a change of reporting official.

**21.3(3) Termination.** Any employing unit which terminates for any reason shall provide IPERS with the following:

- a. Complete name and address of the dissolved entity;
- b. Assigned IPERS account number;
- c. Last date on which wages were paid;
- d. Date on which the entity dissolved;
- e. Reason for the dissolution;
- f. Whether or not the entity expects to pay wages in the future; and
- g. Name and address of absorbed employing unit if applicable.

**21.3(4) Reports of dissolved or absorbed employers.** An employing unit that has been dissolved or entirely absorbed by another employing unit is required to file a quarterly or monthly report with IPERS through the last date on which it legally existed. Any wages paid after the legal date of dissolution are reported under the account number assigned to the new or successor employing unit, if any.

**21.3(5) IPERS account number.** Each reporting unit is assigned an IPERS account number. This number should be used on all correspondence and reporting forms directed to IPERS.

This rule is intended to implement Iowa Code sections 97B.5, 97B.9 to 97B.12, 97B.15 and 97B.41(8) "a."

**581—21.4(97B) Definition of wages for employment during the calendar quarter—other definitions.** Unless the context otherwise requires, terms used in these rules, regulations, interpretations, forms and other official pronouncements issued by IPERS shall have the following meaning:

**21.4(1) "Wages"** means all compensation earned by employees, including vacation pay; sick pay; bonus payments; back pay; dismissal pay; amounts deducted from employee's pay at the employee's discretion for tax-sheltered annuities, dependent care and cafeteria plans; and the cash value of wage equivalents.

- a. *Vacation pay.* The amount paid an employee during a period of vacation.
- b. *Sick pay.* Payments made for sick leave which are a continuation of salary payments.
- c. *Special lump sum payments.* Wages do not include special lump sum payments made during or at the end of service as a payoff of unused accrued sick leave or of unused accrued vacation. Wages do not include special lump sum payments made during or at the end of service as an incentive to retire early or as payments made upon dismissal, severance, or a special bonus payment intended as an early retirement incentive. Wages do not include catastrophic leave paid in a lump sum.
- d. *Other special payment arrangements.* Wages do not include amounts paid pursuant to special arrangements between an employer and employee whereby the employer pays increased wages and the employee reimburses the employer or a third-party obligor for all or part of the wage increase. This includes, but is not limited to, the practice of increasing an employee's wages by the employer's share of health care costs and having the employee reimburse the employer or a third-party provider for such health care costs. Wages do not include amounts paid pursuant to a special arrangement between an employer and employee whereby wages in excess of the covered wage ceiling for a particular year are deferred to one or more subsequent years. Wages do not include employer contributions (excluding employee contributions) to a plan, program, or arrangement whereby the amounts contributed are not included in the member's federal taxable income.

Employers and employees that knowingly and willfully enter into the types of arrangements described in this subrule without making the appropriate wage adjustments, thereby causing an impermissible increase in the payments authorized under Iowa Code chapter 97B, may be prosecuted under Iowa Code section 97B.40 for engaging in a fraudulent practice. If IPERS determines that its calculation of a member's monthly benefit includes amounts paid under an arrangement described in this subrule, IPERS shall recalculate the member's monthly benefit, after making the appropriate wage adjustments. IPERS may recover the amount of overpayments caused by the inclusion of the payments described in this subrule from the monthly amounts payable to the member or amounts payable to the member's successor(s) in interest, regardless of whether or not IPERS chooses to prosecute the employers and employees under Iowa Code section 97B.40.

*e. Wage equivalents.* Items such as food, lodging and travel pay which are includable as employee income, if they are paid as compensation for employment. The basic test is whether or not such wage equivalent was given for the convenience of the employee or employing unit. Wage equivalents are not reportable under IPERS if given for the convenience of the employing unit. Wages paid in any other form than money are measured by the fair market value of the meals, lodging, travel or other wage equivalents.

*f. Members of the general assembly.* Wages for a member of the general assembly means the total compensation received by a member of the general assembly, whether paid in the form of per diem or annual salary. Wages include per diem payments paid to members of the general assembly during interim periods between sessions of the general assembly. Wages do not include expense payments except that, effective July 1, 1990, wages include daily allowances to members of the general assembly for nontravel expenses of office during a session of the general assembly. Such nontravel expenses of office during a session of the general assembly shall not exceed the maximum established by law for members from Polk County. A member of the general assembly who has elected to participate in IPERS shall receive four quarters of service credit for each calendar year during the member's term of office, even if no wages are reported in one or more quarters during a calendar year.

*g. Wages for certain testing purposes.* Wages for testing purposes to ensure compliance with Internal Revenue Code Section 415 shall include a member's gross wages, excluding nontaxable fringe benefits and all amounts placed in tax-deferred vehicles including, but not limited to, plans established pursuant to Internal Revenue Code Sections 125, 401(k), 403, and 457, and excluding IPERS contributions paid after December 31, 1994, by employers on behalf of employees. Effective January 1, 1996, the annual wages of a member taken into account for testing purposes under any of the applicable sections of Internal Revenue Code shall not exceed the applicable amount set forth in Internal Revenue Code Section 401(a)(17), and any regulations promulgated pursuant to that section. The foregoing sentence shall not be deemed to permit the maximum amount of wages of a member taken into account for any other purpose under Iowa Code chapter 97B to exceed the maximum covered wage ceiling under Iowa Code section 97B.41(20). Effective January 1, 1998, wages for testing purposes to ensure compliance with Internal Revenue Code Section 415 shall include elective deferrals placed in tax-deferred plans established pursuant to Internal Revenue Code Sections 125, 401(k), 403, and 457 by employers on behalf of employees.

**21.4(2)** Wages are reportable in the quarter in which they are actually paid to the employee, except in cases where employees are awarded lump sum payments of back wages, whether as a result of litigation or otherwise, in which case the employer shall file wage adjustment reporting forms with IPERS allocating said wages to the periods of service for which such payments are awarded. Employers shall forward the required employer and employee contributions to IPERS.

**21.4(3)** One quarter of service will be credited for each quarter in which a member is paid covered wages.

*a.* “Covered wages” means wages of a member during periods of service that do not exceed the annual covered wage maximum. Effective January 1, 1997, and for each subsequent calendar year, covered wages shall not exceed \$160,000 or the amount permitted for that year under Section 401(a)(17) of the Internal Revenue Code.

Prior covered wage ceilings include:

\$20,000, effective January 1, 1976  
 \$21,000, effective January 1, 1984  
 \$22,000, effective January 1, 1986  
 \$23,000, effective January 1, 1987  
 \$24,000, effective January 1, 1988  
 \$26,000, effective January 1, 1989  
 \$28,000, effective January 1, 1990  
 \$31,000, effective January 1, 1991  
 \$34,000, effective January 1, 1992  
 \$35,000, effective January 1, 1993  
 \$38,000, effective January 1, 1994  
 \$41,000, effective January 1, 1995  
 \$44,000, effective January 1, 1996

*b.* Effective January 1, 1988, covered wages shall include wages paid a member regardless of age. (From July 1, 1978, until January 1, 1988, covered wages did not include wages paid a member on or after the first day of the month in which the member reached the age of 70.)

*c.* If a member is employed by more than one employer during the calendar year, the total amount of wages paid shall be included in determining the annual covered wage maximum. If the amount of wages paid to a member by several employers during a calendar year exceeds the covered wage limit, the amount of the excess shall not be subject to contributions required by Iowa Code section 97B.11. See subrule 21.8(1), paragraph “*h.*”

This rule is intended to implement Iowa Code section 97B.41(20).

### **581—21.5(97B) Identification of employees covered by the IPERS retirement law.**

#### **21.5(1) Definition of employee.**

*a.* A person is in employment as defined by Iowa Code chapter 97B if the person and the covered employer enter into a relationship which both recognize to be that of employer/employee. A person is not in employment if the person volunteers services to a covered employer for which the person receives no remuneration. An employee is an individual who is subject to control by the agency for whom the individual performs services for wages. The term control refers only to employment and includes control over the way the employee works, where the employee works and the hours the employee works. The control need not be actually exercised for an employer/employee relationship to exist; the right to exercise control is sufficient. A public official may be an “employee” as defined in the agreement between the state of Iowa and the Secretary of Health, Education and Welfare, without the element of direction and control.

Effective July 1, 1994, a person who is employed in a position which allows IPERS coverage to be elected as specified in Iowa Code section 97B.41(8) “*b*” must file a one-time election form with IPERS for coverage. If the person was employed before July 1, 1994, the election must be postmarked on or before July 1, 1995. If the person was employed on or after July 1, 1994, the election must be postmarked within 60 days from the date the person was employed. Coverage will be prospective from the date the election is approved by IPERS. The election, once filed, is irrevocable and membership continues until the member terminates covered employment. The election window does not allow members who had been in coverage to elect out.

Effective July 1, 1994, members employed before that date as a gaming enforcement officer, a fire prevention inspector peace officer, or an employee of the division of capitol police (except clerical workers), may elect coverage under Iowa Code chapter 97A in lieu of IPERS. The election must be directed to the board of trustees established in Iowa Code section 97A.5 and postmarked on or before July 1, 1995. Coverage under IPERS will terminate when the board of trustees approves the election. The election, once received by the board of trustees, is irrevocable. If no election is filed by that date, the member will remain covered by IPERS until termination of covered employment. The election window does not allow a member who previously elected out of IPERS to reverse the decision and become covered under IPERS.

Employment as defined in Iowa Code chapter 97B is not synonymous with IPERS membership. Some classes of employees are excluded under Iowa Code section 97B.41(8) "b" from membership by their nature. The following subrules are designed to clarify the status of certain employee positions.

(1) Effective January 1, 1979, members of the Iowa general assembly may elect coverage under IPERS. Effective July 1, 1990, elected officials in positions for which the compensation is on a fee basis, elected officials of school districts, elected officials of townships, and elected officials of other political subdivisions who are in part-time positions are not covered by IPERS unless the elected official makes application to IPERS under this chapter. An elected official who makes application to IPERS to be covered under this chapter may later terminate membership by informing IPERS in writing of the expiration of the member's term of office, or if a member of the general assembly, of the intention to terminate coverage. An elected official does not terminate covered employment with the end of each term of office if the official has been reelected for the same position. If elected for another position, the official must elect coverage if desired.

(2) County and municipal court bailiffs who receive compensation for duties are included.

(3) City attorneys are included.

(4) Judicial magistrates are not included unless they elect IPERS coverage. Having made a choice to elect IPERS coverage, a judicial magistrate may not revoke that election and discontinue such coverage.

(5) Office and clerical staff of a county medical examiner's office are included, but county medical examiners and deputy county medical examiners are excluded.

(6) Effective July 1, 1994, police officers and firefighters of a city not participating in the retirement systems established under Iowa Code chapter 410 or 411 are included. Emergency personnel, such as ambulance drivers, who are deemed to be firefighters by the employer, are to be treated as firefighters. Effective January 1, 1995, part-time police officers are covered in the same manner as full-time police officers. In accordance with Iowa Code section 80D.14, reserve peace officers employed under Iowa Code chapter 80D are excluded from coverage. In accordance with Iowa Code sections 384.6(1) and 411.3, a police chief or fire chief who has submitted a written request to the board of trustees created by section 411.36 to be exempt from chapter 411 is also exempt from coverage under IPERS. The city shall make contributions on behalf of such persons to the international city management association/retirement corporation.

(7) County social welfare employees are included.

(8) Members of county soldiers relief commissions and their administrative or clerical employees are included.

(9) Part-time elected mayors, mayors of townships, and mayors that are paid on a fee basis are not covered under IPERS unless they elect coverage. All other mayors, including appointed mayors and full-time elected mayors, whether elected by popular vote or by some other means, are covered.

(10) Field assessors are included.

(11) Members of county boards of supervisors who receive an annual salary are included; but effective July 1, 1992, members of county boards of supervisors paid on a per diem basis are excluded unless they file an application for coverage.

(12) Temporary employees of the general assembly who are employed for less than six months in a calendar year or work less than 1,040 hours in a calendar year are excluded from IPERS, unless the employee elects coverage. If coverage is elected, the member may not terminate coverage until termination of covered employment.

(13) Persons hired for temporary employment are excluded from IPERS' coverage providing that they have not established an ongoing relationship with an IPERS-covered employer. Effective January 1, 1993, an ongoing relationship with an IPERS-covered employer is established when the employee is paid covered wages of \$300 or more per quarter in two consecutive quarters, or if the employee is employed by a covered employer for 1,040 or more hours in a calendar year. Coverage will begin when the permanency of the relationship is established, and shall continue until the employee's relationship with the covered employer is severed. If there is no formal severance, coverage for a person hired for temporary employment who has established an ongoing relationship with a covered employer will continue until that person completes four consecutive calendar quarters in which no services are performed for that employer after the last covered calendar quarter. Notwithstanding the foregoing sentence, no service credit will be granted to a temporary employee who has become a covered employee under this rule for any calendar quarter in which no covered wages are reported unless the employee is on an approved leave of absence. Contributions shall be paid, and service credit accrued, when wages are paid in the quarter after the ongoing relationship has been established.

(14) Drainage district employees who have vested rights to IPERS through earlier participation or employees of drainage districts who elect IPERS coverage by submitting a formal application are included.

(15) A county attorney is included as an employee whether or not employed on a full- or part-time basis.

(16) Tax study committee employees are included.

(17) Rescinded IAB 7/22/92, effective 7/2/92.

(18) School bus drivers who are considered to be public employees are included. School bus drivers who are independent contractors are excluded. A determination must be made by IPERS on the facts presented on a case-by-case basis.

(19) Persons who are enrolled as students and whose primary occupations are as students are not covered. Full-time and part-time students who are employed by the institutions where they are enrolled as students are not covered. Full-time and part-time students who are employed full-time by a covered employer other than the institution where they are enrolled are covered. Part-time students who are employed part-time by a covered employer other than the institution in which they are enrolled are covered. Full-time students who are employed part-time by a covered employer are not covered. Full-time and part-time student status is as defined by the individual educational institutions. Full-time and part-time employment status is as defined by the individual employers.

(20) Foreign exchange teachers and visitors including alien scholars, trainees, professors, teachers, research assistants and specialists in their field of specialized knowledge or skill are all excluded from coverage.

(21) Members of any other retirement system in Iowa maintained in whole or part by public funds are excluded. Effective July 1, 1996, an employee who is employed by a covered employer other than the employer that makes contributions on the member's behalf to such other retirement system in Iowa shall be a covered employee, unless the employee receives credit in such other retirement system for both jobs.

(22) Members who are contributing to the federal civil service retirement system or federal employees retirement system are excluded. Effective July 1, 1996, an employee who is employed by a covered employer other than the employer making contributions to such federal retirement systems shall be a covered employee, unless the employee receives credit in such federal retirement systems for both jobs.

(23) Employees of credit unions without capital stock organized and operated for mutual purposes without profit are excluded.

(24) Members of the ministry, rabbinate or other religious order who perform full- or part-time religious service for a covered employer are included; but members of the ministry, rabbinate or other religious order who have taken the vow of poverty are excluded, unless within one year of commencing employment or no later than July 1, 1985, for individuals who are members of the system on July 1, 1984, a member makes an application to IPERS to be covered under this chapter.

(25) Any physician, surgeon, dentist or member of other professional groups employed full-time by a covered employer is included; but any member of a professional group who performs part-time service for any public agency but whose private practice provides the major source of income is excluded, except for city attorneys and health officials.

(26) Interns and resident doctors in the employ of a state or local hospital, school or institution are excluded.

(27) Professional personnel who acquire the status of an officer of the state of Iowa or a political subdivision thereof, even though they engage in private practice and render government service only on a part-time basis, are included.

(28) Effective July 1, 1994, volunteer firefighters and special police officers are considered temporary employees and will be covered if they meet the requirements of 581 IAC 21.5(1) "a"(13).

(29) Residents or inmates of county homes are excluded.

(30) Members of the state transportation commission, the board of parole, and the state health facilities council are excluded unless they elect coverage by filing applications with IPERS to be covered.

(31) Employees of an interstate agency established under Iowa Code chapter 28E, and similar enabling legislation in an adjoining state if the city had made contributions to the system for employees performing functions which are transferred to the interstate agency shall be considered employees of the city for the sole purpose of membership in IPERS, although the employer contributions for those employees are made by the interstate agency.

(32) Persons employed as city managers, or as city administrators performing the duties of city managers, under a form of city government listed in Iowa Code chapter 372 or 420 are excluded unless employees make application to IPERS to be covered under the provisions of this chapter.

(33) Employees appointed by the state board of regents who, at the discretion of the state board of regents, elect coverage in a retirement system qualified by the state board of regents are excluded from IPERS coverage.

(34) School employees who work in additional positions along with normal duties with the same employer will be considered employees until all of their compensated duties to their employer cease. (Examples include teacher/coach; teacher/summer driver's education instructor; and Phase I, II, and III employment.)

(35) "Adjunct instructors" employed by a community college or university are excluded from coverage. Adjunct instructors are persons employed by a community college or university without a continuing contract and whose teaching load does not exceed one-half time for two full semesters or three full quarters for the calendar year. The determination of whether a teaching load exceeds one-half time shall be based on the number of credit hours or noncredit contact hours that the community college or university considers to be a full-time teaching load for a regular full semester or quarter, as the case may be. In determining whether an adjunct instructor is a covered employee, no credit shall be granted for teaching periods of shorter duration than a regular semester or regular quarter (such as summer semesters), regardless of the number of credit or contact hours assigned to that period. If there is no formal severance, an adjunct instructor who becomes a covered employee will remain a covered employee until that person completes four consecutive calendar quarters in which no services are performed for that covered employer after the last covered calendar quarter. Notwithstanding the foregoing sentence, no service credit will be granted to any adjunct instructor who has become a covered employee under this rule for any calendar quarter in which no covered wages are reported unless the adjunct instructor is on an approved leave of absence.

(36) Effective July 1, 1992, enrollees of a senior community service employment program authorized by Title V of the Older Americans Act and funded by the United States Department of Labor are not covered unless: (a) both the enrollee and the covered employer elect coverage; or (b) the enrollee works for a covered employer for more than eight consecutive quarters; or (c) the enrollee is currently contributing to IPERS. A covered employer is defined as the host agency where the enrollee is placed for training.

(37) Effective July 1, 1994, employees of area agencies on aging are excluded from coverage if the area agency has provided for participation by all of its eligible employees in an alternative qualified plan pursuant to the requirements of the federal Internal Revenue Code. If an area agency on aging terminates participation in an alternative plan, coverage under IPERS shall begin immediately.

(38) Effective July 1, 1994, arson investigators are no longer covered under IPERS. They were transferred to public safety peace officers' retirement, accident and disability system.

(39) Persons who meet the requirements of independent contractor status as determined by IPERS using the criteria established by the federal Internal Revenue Service are not included.

(40) Effective July 1, 1994, a person employed on or after that date for certain public safety positions is excluded from IPERS coverage. These positions are gaming enforcement officers employed by the division of criminal investigation for excursion boat gambling enforcement activities, fire prevention inspector peace officers, and employees of the division of capitol police (except clerical workers).

(41) Employees of area community colleges are included unless they elect coverage under an alternative system pursuant to a one-time irrevocable election.

(42) Volunteer emergency personnel, such as ambulance drivers, are considered temporary employees and will be covered if they meet the requirements of 581 IAC 21.5(1)"a"(13). Persons who meet such requirements will be covered under the protection occupation requirements of Iowa Code section 97B.49(16) if they are considered firefighters by their employers; otherwise they are covered under Iowa Code section 97B.11.

(43) Employees of the Iowa department of public safety hired pursuant to Iowa Code chapter 80 as peace officer candidates are excluded from coverage.

(44) Persons employed through any program described in Iowa Code section 15.225, subsection 1, and provided by the Iowa conservation corps shall not be covered.

(45) Members of boards and commissions who receive a set salary shall be covered. Members of boards and commissions who receive per diem and expenses shall not be covered.

(46) Persons receiving rehabilitation services in a community rehabilitation program, rehabilitation center, sheltered workshop, and similar organizations whose primary purpose is to provide vocational rehabilitation services to target populations shall not be covered.

(47) Persons who are members of a community service program authorized under and funded by grants made pursuant to the federal National and Community Service Act of 1990 shall not be covered.

b. Each employer shall ascertain the federal social security account number of each employee subject to IPERS.

c. Rescinded IAB 7/5/95, effective 8/9/95.

**21.5(2)** The employer shall report the employee's federal social security account number in making any report required by IPERS with respect to the employee.

**21.5(3) to 21.5(6)** Rescinded IAB 7/22/92, effective 7/2/92.

**21.5(7)** Effective July 1, 1996, an employee may actively participate in IPERS and another retirement system supported by public funds if the person does not receive credit under both IPERS and such other retirement system for any position held.

This rule is intended to implement Iowa Code sections 97B.41(8)“b,” 97B.42, 97B.42A, 97B.42B, 97B.49(16)“d”(2), and 97B.52A.

### **581—21.6(97B) Wage reporting and payment of contributions by employers.**

**21.6(1)** Any public employing unit whose combined employer/employee IPERS contribution tax equals or exceeds \$100 per month is required to pay the tax on a monthly basis. All other employing units are required to file wage reports and pay the contribution tax on a quarterly basis. When IPERS becomes aware of the correct payment and reporting status of an employing unit, IPERS will send to the reporting official a supply of the employer remittance advice forms.

**21.6(2)** Each periodic wage reporting form must include all employees who earned reportable wages or wage equivalents under IPERS. If an employee has no reportable wage in a quarter but is still employed by the employing unit, the employee should be listed with zero wages. If the total amount of employer and employee contributions is \$1 or less, wages shall be reported as zero for that member in that quarter.

**21.6(3)** All checks in payment of the total contribution tax shall be made payable to the Iowa Public Employees' Retirement System and mailed with the employer remittance advice to IPERS, P.O. Box 9117, Des Moines, Iowa 50306-9117.

**21.6(4)** For employers filing quarterly employer remittance advice forms, contributions must be received by IPERS on or before the fifteenth day of the month following the close of the calendar quarter in which the wages were paid.

For employers filing monthly employer remittance advice forms, contributions must be received by IPERS on or before the fifteenth day of the month following the close of the month in which wages were paid.

Any employer filing monthly or quarterly employer remittance advice forms for two or more entities shall attach to each remittance form the checks covering the contributions due on that form. The combining of contributions due for payment into one check or multiple checks will not be accepted. Improperly paid contributions are considered as unpaid. Upon the request of the employer, IPERS may grant a waiver of the requirement which prohibits the combining of contributions. Entities which have several accounts will be required to report all wages under one main account effective January 1, 1995.

**21.6(5)** A request for an extension of time to pay a contribution may be granted by IPERS for good cause if presented before the due date, but no extension shall exceed 30 days after the end of the calendar quarter. If an employer who has been granted an extension fails to pay the contribution on or before the end of the extension period, interest shall be charged and paid from the original due date as if no extension had been granted.

**21.6(6)** When an employer has no reportable wages or no wages to report during the applicable reporting period, the periodic wage reporting document should be marked “no reportable wages” or “no wages” and returned to IPERS. When no employer's wage report is made, the employing unit's account is considered delinquent for the reporting period until the report is filed.

**21.6(7)** Substitute forms may be used if they meet all the IPERS reporting requirements and the employing unit receives advance approval from IPERS.

**21.6(8)** Magnetic tape reporting may be used by an employer after submitting a written request to IPERS. When the request is received, IPERS will send the employer a copy of the specifications for this type of reporting.

**21.6(9)** Contribution rates. The following contribution rate schedule, payable on the covered wage of the member, is determined by the position or classification and the occupation class code of the member.

- a.* All covered members, except those identified in 21.6(9) “*b*” and “*c*.”
  - (1) Member’s rate—3.7%.
  - (2) Employer’s rate—5.75%.
- b.* Sheriffs, deputy sheriffs, and airport firefighters, effective July 1, 1998.
  - (1) Member’s rate—6.34%.
  - (2) Employer’s rate—9.51%.
- c.* Members employed in a protection occupation, effective July 1, 1998.
  - (1) Member’s rate—5.61%.
  - (2) Employer’s rate—8.41%.
- d.* Members employed in a “protection occupation” shall include:
  - (1) Conservation peace officers.
  - (2) Effective July 1, 1994, a marshal in a city not covered under Iowa Code chapter 400, or a firefighter or police officer of a city not participating under Iowa Code chapter 410 or 411. (See definitions of employee in subrule 21.5(1).)

Effective January 1, 1995, part-time police officers will be included.

- (3) Correctional officers as provided for in Iowa Code section 97B.49(16) “*d*” (3).

For the purposes of this subrule, a correctional officer position shall be defined as any permanent, merit system covered position of the Iowa department of corrections whose primary purpose is, through ongoing direct inmate contact, to enforce and maintain discipline, safety, and security within a correctional facility. Incumbents of those positions shall be eligible for “protection occupation” coverage only while in an eligible position that meets the definition.

Employees who, prior to December 22, 1989, were in a “correctional officer” position but whose position is found to no longer meet this definition on or after that date, shall retain coverage, but only for as long as the employee is in that position or another “correctional officer” position that meets this definition. Movement to a position that does not meet this definition shall cancel “protection occupation” coverage.

(4) Airport firefighters employed by the military division of the department of public defense. Effective July 1, 1994, airport firefighters employed by the military division of the department of public defense shall pay the same contribution rate, and receive benefits under the same formula, as sheriffs and deputy sheriffs. Service under this subrule includes all membership service in IPERS as an airport firefighter.

(5) Airport safety officers employed under Iowa Code chapter 400 by an airport commission in a city of 100,000 population or more.

(6) Rescinded IAB 7/5/95, effective 8/9/95.

(7) Effective July 1, 1990, an employee of the state department of transportation who is designated as a “peace officer” by resolution under Iowa Code section 321.477.

(8) Effective July 1, 1992, a fire prevention inspector peace officer employed by the department of public safety. Effective July 1, 1994, a fire prevention inspector peace officer employed before that date who does not elect coverage under Iowa Code chapter 97A in lieu of IPERS.

(9) Effective July 1, 1994, through June 30, 1998, a parole officer III with a judicial district of the department of correctional services.

(10) Effective July 1, 1994, through June 30, 1998, a probation officer III with a judicial district of the department of correctional services.

*e.* Prior special rates are as follows:

Effective July 1, 1997, through June 30, 1998:

1. Sheriffs, deputy sheriffs, and airport firefighters—member's rate—5.91%; employer's rate—8.87%.

2. Protection occupation—member's rate—5.64%; employer's rate—8.45%.

*f.* Pretax.

(1) Effective January 1, 1995, employers must pay member contributions on a pretax basis for federal income tax purposes only. Such contributions are considered employer contributions for federal income tax purposes and employee contributions for all other purposes. Employers must reduce the member's salary reportable for federal income tax purposes by the amount of the member's contribution.

(2) Salaries reportable for purposes other than federal income tax will not be reduced, including IPERS, FICA, and, through December 31, 1998, state income tax purposes.

(3) Effective January 1, 1999, employers must pay member contributions on a pretax basis as provided in subparagraph (1) above for both federal and state income tax purposes.

**21.6(10)** Effective July 1, 1992, credit memos that have been issued due to an employer's overpayment are void one year after issuance.

This rule is intended to implement Iowa Code sections 97B.11, 97B.11A, 97B.14, and 97B.49(7), (8), (10) and (16).

**581—21.7(97B) Accrual of interest.** Interest as provided under Iowa Code section 97B.9 shall accrue on any contributions not received by IPERS by the due date, except that interest may be waived by IPERS upon request prior to the due date by the employing unit, if due to circumstances beyond the control of the employing unit.

This rule is intended to implement Iowa Code section 97B.9.

**581—21.8(97B) Refunds.**

**21.8(1)** Termination of employment and refund of contributions.

*a.* A member is eligible for a refund of the member's accumulated contributions 30 days after the member's last paycheck is issued from which IPERS contributions will be deducted. The last pay date must be certified by the employer on the refund application unless the member has not been paid covered wages for at least one year. The employee's "termination date" is the last date on which the employee was paid and certified by the employer on the IPERS refund application. The applicant's signature must be notarized. Upon receiving an eligible member's application for refund, IPERS shall pay to the terminated member the amount of the member's accumulated contributions currently reported to, and processed by, IPERS as of the date of the refund. Upon receipt of the final contributions from the member's employer, a supplemental refund will be paid to the terminated member. Terminated members must keep IPERS advised in writing of any change in address so that refunds and tax documents may be delivered.

*b.* To obtain a refund, a member must file a refund application form, which is available from IPERS or the member's employer.

*c.* IPERS may issue an emergency refund to a member who has terminated covered employment and meets the refund eligibility requirements of Iowa Code section 97B.53, if:

(1) The member files an application for refund on a form provided by IPERS;

(2) The member alleges in writing that the member is encountering a financial hardship or unforeseeable emergency; and

(3) The member provides IPERS with payment instructions either in person or in writing.

*d.* Financial hardship or unforeseeable emergency includes:

(1) Severe financial hardship to a member resulting from a sudden and unexpected illness or accident of the member or a member's dependent;

(2) Loss of a member's property due to casualty; or

(3) Other similar extraordinary and unforeseeable circumstances which arise as a result of events beyond a member's control.

*e.* An emergency refund will not be issued by IPERS until the member makes payment in full of an "emergency refund processing fee" by a guaranteed financial instrument, such as a cashier's or certified check. Personal checks and cash are not accepted. This fee is to reflect the actual costs to IPERS associated with processing the refund on an emergency basis, including staff time and cost of materials. IPERS shall develop a policy to set fees for processing in accordance with Iowa Code section 97B.38.

*f.* Unless otherwise specified by the member, the refund warrant will be mailed to the member at the address listed on the application for refund. If a member so desires, the warrant may be delivered to the member or the member's agent at IPERS' principal office, which is located at 600 East Court Avenue, Des Moines, Iowa. The member must show verification of identification by presenting a picture identification containing both name and social security number. If a member designates in writing an agent to pick up the warrant, the agent must present to IPERS the written designation and a picture identification.

*g.* Employers who erroneously report wages for employees that are not covered under IPERS may secure a refund or credit, as elected by the employer, for the employer's contributions by filing IPERS' periodic wage reporting adjustment form available from IPERS. An employer that files a periodic wage reporting adjustment form and requests a refund or credit shall receive a refund or credit for both the employer and employee contributions made in error. The employer is responsible for returning the employee's share of refunded or credited amounts and for filing corrected federal and state wage reporting forms. Warrants will not be issued by IPERS if the amount due is less than one dollar. In such cases, the credit will be transferred to the employer's credit memo. Under no circumstance can the employer adjust these wages by underreporting wages on a future periodic wage reporting document. Wages can never be reported as a negative amount. An employer that completes the employer portion of an employee's request for a refund on IPERS Form 56 will not be permitted to file a periodic wage reporting adjustment form for that employee for the same period of time.

*h.* Effective for wages paid in calendar years beginning on or after January 1, 1995, IPERS shall automatically issue to each affected employer a refund of both employer and employee contributions paid on wages in excess of the annual covered wage maximum for a calendar year. A report will be forwarded to each such employer detailing each employee for whom wages were reported in excess of the covered wage ceiling. Warrants for the excess contributions made will be issued to the employers upon IPERS' receipt of certification from said employers that the overpayment report is accurate. Warrants will not be issued if the amount due is less than one dollar. In such cases, the credit will be transferred to the employer's credit memo. The employer is responsible for returning the employee's share of refunded excess contributions. Where employees have simultaneous employment with two or more employers and as a result contributions are made on wages in excess of the annual covered wage maximum, refunds of excess employer and employee contributions shall be made to each employer in proportion to the amount of contributions paid by the employer.

**21.8(2)** If an employee hired for permanent employment resigns within six months of the date of employment, the employer may file IPERS' form for reporting adjustments to receive the credit for both the employer's and employee's portion of the contributions. It is the responsibility of the employer to return the employee's share.

**21.8(3)** Refund of contributions—after reemployment. A retired member who returns to permanent covered employment, but who resigns within six months of the date the reemployment began, is eligible to have the contributions for this period refunded. The contributions made by the employer will also be refunded. Upon the determination of IPERS that the reemployment cannot be included in a recomputation of the retired member's benefits, IPERS will initiate action to refund the employee's and credit the employer's contributions. A retired member who returns to permanent employment and subsequently terminates the member's employment may elect, in lieu of an increased monthly allowance, to receive a refund of the member's accumulated contributions accrued during the period of reemployment. A reemployed member who elects a refund under this subrule in lieu of an increased monthly allowance shall forfeit all other rights to benefits under the system with respect to the period of reemployment.

**21.8(4)** Refunds of any kind shall not be issued if the amount due is less than \$1.

This rule is intended to implement Iowa Code sections 97B.10, 97B.46 and 97B.53.

## **581—21.9(97B) Appeals.**

### **21.9(1) Procedures.**

*a.* A party who wishes to appeal a decision by IPERS shall, within 30 days after notification was mailed to the party's last known address, file with IPERS a notice of appeal in writing setting forth:

- (1) The name, address, and social security number of the applicant;
- (2) A reference to the decision from which the appeal is being made;
- (3) The fact that an appeal from the decision is being made; and
- (4) The grounds upon which the appeal is based.

Upon receipt of the appeal, IPERS shall conduct an internal review of the facts and circumstances involved, in accordance with its appeal review procedure. IPERS shall issue a final agency decision which becomes final unless within 30 days of issuance the member files a notice of further appeal. Upon receipt of notification of further appeal, IPERS shall inform the department of inspections and appeals of the filing of the appeal and of relevant information pertaining to the case in question. In determining the date that an appeal or any other document is filed with IPERS or the department of inspections and appeals, the following shall apply: an appeal or any other document delivered by mail shall be deemed to be filed on the postmark date; an appeal or any other document delivered by any other means shall be deemed to be filed on the date of receipt. The department of inspections and appeals shall hold a hearing on the case and shall affirm, modify, or reverse the decision by IPERS.

*b.* Rescinded IAB 7/22/92, effective 7/2/92.

**21.9(2)** *The determination of appeals.* Following the conclusion of a hearing of an appeal, the administrative law judge within the department of inspections and appeals shall announce the findings of fact. The decision shall be in writing, signed by the administrative law judge, and filed with IPERS, with a copy mailed to the appellant. Such decision shall be deemed final unless, within 30 days after the issuance date of such decision, further appeal is initiated. The issuance date is the date that the decision is signed by the administrative law judge.

**21.9(3)** *Appeal board.* A party appealing from a decision of an administrative law judge shall file a notice with the employment appeal board of the Iowa department of inspections and appeals, petitioning the appeal board for review of the administrative law judge's decision. In determining the date that a notice of appeal or any other document is filed with the employment appeal board, and subject to applicable exceptions adopted by the employment appeal board in IAC [486], the following shall apply: an appeal or any other document delivered by mail shall be deemed to be filed as of the postmark date; an appeal or any other document delivered by any other means shall be deemed to be filed as of the date that it is received.

**21.9(4)** *Judicial review.* The appeal board's decision shall be final and without further review 30 days after the decision is mailed to all interested parties of record unless within 20 days a petition for rehearing is filed with the appeal board or within 30 days a petition for judicial review is filed in the appropriate district court. The department, in its discretion, may also petition the district court for judicial review of questions of law involving any of its decisions. Action brought by the department for judicial review of its decisions shall be brought in the district court of Polk County, Iowa.

This rule is intended to implement Iowa Code sections 97B.16, 97B.20, 97B.20A, 97B.20B, 97B.27 and 97B.29.

#### **581—21.10(97B) Beneficiaries.**

**21.10(1)** *Designation of beneficiaries.* To designate a beneficiary, the member must complete an IPERS designation of beneficiary form, which must be filed with IPERS. The designation of a beneficiary by a retiring member on the application for monthly benefits is accepted by IPERS in lieu of a completed designation form. IPERS may consider as valid a designation of beneficiary form filed with the member's employer prior to the death of the member, even if that form was not forwarded to IPERS prior to the member's death.

**21.10(2)** *Change of beneficiary.* The beneficiary may be changed by the member by filing a new designation of beneficiary form with IPERS. The latest dated designation of beneficiary form on file shall determine the identity of the beneficiary. Payment of a refund to a terminated member cancels the designation of beneficiary on file with IPERS.

**21.10(3)** *Payments to a beneficiary.* Before death benefit payments can be made, application in writing must be submitted to IPERS with a copy of the member's death certificate, together with information establishing the claimant's right to payment. A named beneficiary must complete IPERS' application for death benefits based on the deceased member's account.

**21.10(4)** *Where the designated beneficiary is an estate, trust, church, charity or other like organization, payment of benefits shall be made in a lump sum only.*

**21.10(5)** *Rescinded IAB 7/5/95, effective 8/9/95.*

**21.10(6)** *Where multiple beneficiaries have been designated by the member, payment, including the payment of the remainder of a series of guaranteed annuity payments, shall be made in a lump sum only. The lump sum payment shall be paid to the multiple beneficiaries in equal shares unless a different proportion is stipulated.*

**21.10(7)** Payment of the death benefit when no designation of beneficiary is on file with IPERS shall be made in one of the following ways:

*a.* Where the estate is open, payment shall be made to the administrator or executor.

*b.* Where the estate is closed prior to the filing with IPERS of an application for death benefits, payment will be made to the surviving spouse. If there is no surviving spouse, payment will be made to the executor or administrator as agent for the estate. The following documents shall be presented as supporting evidence:

- (1) Copy of the will, if any;
- (2) Copy of any letters of appointment; and
- (3) Copy of the court order closing the estate and discharging the executor or administrator.

*c.* Where no estate is probated, payment will be made to the surviving spouse, if any. If there is no surviving spouse, payment will be made to the heirs-at-law as determined by the intestacy laws of the state of Iowa.

**21.10(8)** Where the member dies prior to the first month of entitlement, the refund of accumulated contributions shall include the accumulated contributions of the member plus the product of an amount equal to the highest year of covered wages of the deceased member and the number of years of membership service divided by the “applicable denominator,” as provided in Iowa Code section 97B.52(1). The amount payable shall not be less than the amount that would have been payable on the death of the member on June 30, 1984. The calculation of the highest year of covered wages shall use the highest calendar year of covered wages reported to IPERS.

When a member who has filed an application for retirement benefits and has survived into the first month of entitlement dies prior to the issuance of the first benefit check, IPERS will pay the death benefit allowed under the retirement option elected pursuant to section 97B.48(1) or 97B.51.

**21.10(9)** Waiver of beneficiary rights. A named beneficiary of a deceased member may waive current and future rights to payments to which the beneficiary would have been entitled. The waiver of the rights shall occur prior to the receipt of a payment from IPERS to the beneficiary. The waiver of rights shall be binding and will be executed on a form provided by IPERS. The waiver of rights may be general, in which case payment shall be divided equally among all remaining designated beneficiaries, or to the member’s estate if there are none. The waiver of rights may also expressly be made in favor of one or more of the member’s designated beneficiaries or the member’s estate. If the waiver of rights operates in favor of the members’ estate and no estate is probated or claim made, payment shall be paid to the member’s surviving spouse unless there is no surviving spouse or the surviving spouse has waived his or her rights. In that case, payment shall be made to the member’s heirs excluding any person who waived his or her right to payment.

**21.10(10)** Payment may be made to a conservator if the beneficiary is under the age of 18 and the total dollar amount to be paid by IPERS to a single beneficiary is \$10,000 or more. Payment may be made to a custodian if the total dollar amount to be paid by IPERS to a single beneficiary is less than \$10,000.

Interest will accrue on the member’s accumulated contributions until the total sum is paid to the minor, but no later than the maximum period permitted under subrule 21.10(15) below.

**21.10(11)** When a member on benefits returns to covered employment (or remains in covered employment if aged 70 or older), and dies before applying for a recomputation or recalculation of benefits, the death benefit formula will be applied to the wages and years of service reported after benefits begin.

**21.10(12)** Death benefits shall not exceed the maximum amount possible under the Internal Revenue Code.

**21.10(13)** IPERS will apply the provisions of the Uniform Simultaneous Death Act, Iowa Code sections 633.523 et seq., in determining the proper beneficiaries of death benefits in applicable cases.

**21.10(14)** IPERS will apply the provisions of the Felonious Death Act, Iowa Code sections 633.535 et seq., in determining the proper beneficiaries of death benefits in applicable cases.

**21.10(15)** A completed application must be filed with the department no later than five years after the date of the member's death or the total sum is forfeited. A beneficiary's right to receive a death benefit beyond the five-year limitation shall be extended to the extent permitted under Internal Revenue Code Section 401(a)(9) and the applicable treasury regulations. Notwithstanding the foregoing, the maximum claims period shall not exceed the period required under Internal Revenue Code Section 401(a)(9), which may be less than five years for death benefits payable under benefit options described in Iowa Code sections 97B.49 and 97B.51(6) and for members who die after their required beginning date. The claims period for all cases in which the member's death occurs during the same calendar year in which a claim must be filed under this subrule shall end April 1 of the year following the year of the member's death.

This rule is intended to implement Iowa Code sections 97B.34, 97B.34A, 97B.41(8), 97B.41(12), 97B.44 and 97B.52.

### **581—21.11(97B) Application for benefits.**

**21.11(1)** Form used. It is the responsibility of the member to notify IPERS of the intention to retire. This should be done 60 days before the expected retirement date. The application for monthly retirement benefits is obtainable from IPERS, 600 East Court Avenue, P.O. Box 9117, Des Moines, Iowa 50306-9117. The printed application form shall be completed by each member applying for benefits and shall be mailed or brought in person to IPERS. Option choice and date of retirement shall be clearly stated on the application form and all questions on the form shall be answered in full. If an optional allowance is chosen by the member in accordance with Iowa Code section 97B.48(1) or 97B.51, the election becomes binding when the first retirement allowance is paid. A retirement application is deemed to be valid and binding when the first payment is paid. Members may not cancel their applications, change their option choice, or change an option 4 contingent annuitant after that date.

**21.11(2)** Proof required in connection with application. Proof of date of birth to be submitted with an application for benefits shall be in the form of a birth certificate or an infant baptismal certificate. If these records do not exist, the applicant shall submit two other documents or records ten or more years old, or certification from the custodians of these records, which will verify the day, month and year of birth. The following records or documents are among those deemed acceptable to IPERS as proof of date of birth:

- a.* United States census record;
- b.* Military record;
- c.* Naturalization record;
- d.* A marriage license showing age of applicant in years, months and days on date of issuance;
- e.* A life insurance policy;
- f.* Records in a school's administrative office;
- g.* An official form from the United States Immigration Service, such as the "green card," containing such information;
- h.* Valid Iowa driver's license; or
- i.* Adoption papers; or
- j.* A family Bible record. A photostatic copy will be accepted with certification by a notary that the record appears to be genuine.

**21.11(3)** Retirement benefits and the age reduction factor.

*a.* A member shall be eligible for monthly retirement benefits with no age reduction effective with the first of the month in which the member becomes the age of 65, if otherwise eligible.

*b.* A member shall be eligible for full monthly retirement benefits with no age reduction effective with the first of the month in which the member becomes the age of 62, if the member has 30 full years of service and is otherwise eligible.

*c.* Effective July 1, 1988, a member shall be eligible to receive full monthly retirement benefits effective the first of the month in which the member's age on the last birthday and the member's years of service equal or exceed 92, provided that the member is at least the age of 55 and has at least 30 years' service.

*d.* Effective July 1, 1990, a member shall be eligible to receive monthly retirement benefits with no age reduction effective the first of the month in which the member's age on the last birthday and the member's years of service equal or exceed 92, provided that the member is at least the age of 55.

*e.* Effective July 1, 1996, a member shall be eligible to receive monthly retirement benefits with no age reduction effective the first of the month in which the member's age on the last birthday and the member's years of service equal or exceed 90, provided that the member is at least the age of 55.

*f.* Effective July 1, 1997, a member shall be eligible to receive monthly retirement benefits with no age reduction effective the first of the month in which the member's age on the last birthday and the member's years of service equal or exceed 88, provided that the member is at least the age of 55.

These benefits are computed in accordance with Iowa Code sections 97B.11 and 97B.49.

**21.11(4)** A member shall be eligible to receive monthly retirement benefits effective with the first day of the month in which the member becomes the age of 70, even though the member continues to be employed.

**21.11(5)** A member shall be eligible to receive benefits for early retirement effective with the first of the month in which the member attains the age of 55 or the first of any month after attaining the age of 55 before the member's normal retirement date, provided the date is after the last day of service.

**21.11(6)** A member retiring on or after the early retirement or normal retirement date shall submit a written notice to IPERS setting forth the retirement date, provided the date is after the member's last day of service. A member's first month of entitlement shall be no earlier than the first day of the first month after the member's last day of service or, if later, the month provided for under subrule 21.18(2). A member who does not begin benefits timely in the first month that begins after the member's last day of service may receive up to six months of retroactive payments. The period for which retroactive payments may be paid is measured from the month that a valid contact occurs. For purposes of this subrule, a "contact" means a telephone call, facsimile transmission, E-mail, visit to IPERS at its offices or off-site locations, or a letter or other writing requesting a benefits estimate or application to retire, whichever is received first. A contact is only valid if a completed application to retire is received within six months following the month that a benefits estimate or application to retire form is mailed to the member in response to the contact. If a completed application to retire form is received more than six months after such a benefits estimate or application to retire is mailed, retroactive payments may only be made for up to six months preceding the month that the completed application to retire is received.

Notwithstanding the foregoing, IPERS shall commence payment of a member's retirement benefit under Iowa Code section 97B.49 (option 2) no later than the "required beginning date" specified under Internal Revenue Code Section 401(a)(9), even if the member has not submitted the appropriate notice. If the lump sum actuarial equivalent of option 2 under Iowa Code section 97B.48(1) could have been elected by the member, payments shall be made in said lump sum rather than as a monthly allowance. The "required beginning date" is defined as the later of: (1) April 1 of the year following the year that the member attains age 70½, or (2) April 1 of the year following the year that the member actually terminates all covered and noncovered employment with employers covered under Iowa Code chapter 97B.

**21.11(7)** Retirement benefits to a member shall terminate the day on which the member's death occurs. The benefits for the month of the member's death shall be prorated based on the number of days the member lived during that month. Notwithstanding the foregoing, for each death occurring on or after July 1, 1998, a member's retirement benefits shall terminate after payment is made to the member for the entire month during which the member's death occurs. For such deaths, death benefits shall begin with the month following the month in which the member's death occurs.

**21.11(8)** Upon the death of the retired member, IPERS will reconcile the decedent's account to determine if an overpayment was made to the retiree and if a further payment(s) is due to the retired member's named beneficiary, contingent annuitant, heirs-at-law or estate. If an overpayment has been made to the retired member, IPERS will determine if steps should be taken to seek collection of the overpayment from the named beneficiary, contingent annuitant, estate, heirs-at-law, or other interested parties.

The waiver of the necessary steps to effect collection may occur in cases where recovery of the monies is not probable and where that action is not deemed prudent administration or cost-effective utilization of the funds of the system.

**21.11(9)** To receive retirement benefits, a member under the age of 70 must officially leave employment with an IPERS covered employer, give up all rights as an employee, and complete a period of bona fide retirement. A period of bona fide retirement means four or more consecutive calendar months for which the member qualifies for monthly retirement benefit payments. Effective January 1, 1993, in order to establish a bona fide retirement, a member must remain out of any covered employment with an IPERS covered employer for four consecutive months. The qualification period begins with the member's first month of entitlement for retirement benefits as approved by IPERS. A member may not return to covered employment before filing a completed application for benefits. If eligibility for and payment of benefits is retroactive at least four months prior to the application filing date, the member may return to noncovered employment with a covered employer after the four qualifying months have elapsed but before filing the application.

A member will not be considered to have a bona fide retirement if the member is a school or university employee and returns to work with the employer after the normal summer vacation. In other positions, temporary or seasonal interruption of service which does not terminate the period of employment does not constitute a bona fide retirement.

Effective July 1, 1990, a school employee will not be considered terminated if, while performing the normal duties, the employee performs for the same employer additional duties which take the employee beyond the expected termination date for the normal duties. Only when all the employee's compensated duties cease for that employer will that employee be considered terminated.

The bona fide retirement period will be waived, however, if the member is elected to public office which term begins during the normal four-month bona fide retirement period. This waiver does not apply if the member was an elected official who was reelected to the same position for another term.

A member will have a bona fide retirement if the member returns to work as an independent contractor with a public employer during the four-month qualifying period. Independent contractors are not covered under IPERS.

Notwithstanding any of the foregoing provisions, a member who terminates covered employment but maintains an employment relationship with an employer that made contributions to the system on the member's behalf does not have a bona fide retirement until all employment, including employment which is not covered by this chapter, with such employer is terminated for at least 30 days. In order to receive retirement benefits, the member must file a completed application for benefits form with the department before returning to any employment with the same employer.

**21.11(10)** If a member files a retirement application but fails to select a first month of entitlement, IPERS will select by default the earliest month possible. A member may appeal this default selection by sending written notice of the appeal postmarked on or before 30 days after a notice of the default selection was mailed to the member. Notice of the default selection is deemed sufficient if sent to the member at the member's address of record.

This rule is intended to implement Iowa Code sections 97B.5, 97B.15, 97B.48(1), 97B.49(5), 97B.50(1), 97B.51, 97B.52, and 97B.52A.

**581—21.12(97B) Service credit.** An employee working in a position for a school district or other institution which operates on a nine-month basis shall be credited with a year of service for each year in which three quarters of coverage are recorded, if the employee returns to covered employment the next operating year. An individual employed on a fiscal- or calendar-year basis shall be credited with a year of service for each year in which four quarters of coverage are recorded.

**21.12(1) Prior service.**

*a.* A member shall receive prior service credit if the member made contributions under the abolished Iowa Old-Age and Survivors' Insurance (IOASI) System and has not qualified for IOASI benefits. If qualified, a member will be granted credit for verified service that occurred during and prior to the IOASI period.

*b.* Effective July 1, 1990, "public employee" means not only an employee who had made contributions under IOASI, but also includes members who had service as a public employee prior to July 4, 1953, in another state, or for the federal government, or within other retirement systems established in the state of Iowa and who qualify for the buy-in programs referenced in 21.24(2). To receive credit for service in another system, however, the public employee who had not made contributions to IOASI but who wishes to receive prior service credit for public employment elsewhere must meet the following conditions:

- (1) Have been a public employee;
- (2) Waive on a form provided by IPERS all rights to a retirement in another system for that period of employment for the public employer(s), if any; and
- (3) Submit verification of service for that other public employer to IPERS.

A qualifying member who decides to purchase IPERS credit for prior service must make employer and employee contributions to IPERS for each year of service or fraction thereof allowed in this buy-in. This contribution shall be equal to the member's covered IPERS wages for the most recent full calendar year of IPERS coverage, using the rates in Iowa Code sections 97B.11 and 97B.49 then applicable to the type of service credit being purchased, and multiplied by the number of years or fraction thereof being purchased from other public employment.

*c.* Prior to July 1, 1990, public employment must have been for the state of Iowa, or a county, city, township, school district of the state of Iowa, or a political subdivision, provided the employment was not in an elective position, and provided further that the employee is not covered by another retirement plan funded in whole or in part by the state of Iowa or a political subdivision. Effective July 1, 1990, public employment may also include service for a public employer in another state, for the federal government, or for public employment covered by another retirement system within the state of Iowa.

*d.* For the purposes of this rule, public school teachers are considered to have been in service on July 4, 1953, if they were under contract at the end of the school year 1952-1953 or if they signed a contract for the 1953-1954 school year on or before July 4, 1953.

**21.12(2) Prior service credit for vacation or leave of absence.**

*a.* Prior service credit shall be given for a period of vacation or leave of absence authorized by the employer not to exceed 12 months. If a period of vacation or leave of absence exceeds 12 months, prior service credit shall be given for the first 12 months only. However, if a period of vacation or leave of absence was granted for 12 months or less, and renewed for 12 months or less, all periods of vacation or leave of absence shall be included as prior service, even though all periods added together exceed 12 months.

*b.* Reentry into public employment by an employee on leave of absence can be achieved by the employee by accepting employment with any public employer, provided there is no interruption between the end of the period of the leave of absence and reentry into public employment.

*c.* The employer must verify the inclusive dates of the period of vacation or leave of absence before prior service can be given.

**21.12(3) *Prior service credit for military service.***

a. Prior service credit shall be given for the entire period of military service during a war or national emergency, provided the employee was employed by the employer immediately prior to entry into military service and the employee returned to work for the same employer within 12 months after release from service.

b. The employer must verify the inclusive dates of the period of absence from work. A copy of the enlistment and discharge records must also be provided to IPERS to verify enlistment and discharge dates.

**21.12(4) *Prior service credit for interruption in service.*** Prior service credit shall be given for periods of temporary or seasonal interruption in service where the temporary suspension of service does not terminate the period of employment of the employee. Verification from the employer is needed stating the dates of employment, periods of interruption and that employment was not terminated during those periods.

**21.12(5) *Prior service credit for part-time employment.***

a. Effective July 1, 1990, if a member had covered wages reported in any quarter or the custodian of the record certifies service in any quarter, a full quarter of credit will be granted.

b. A teacher will receive credit for a full year in which three quarters of coverage are reported or three quarters of service are certified by the custodian of the records if the teacher had a contract for the following school year. IPERS may require the submission of a copy of that contract.

c. Prior to July 1, 1990, prior service credit for part-time employment was granted on the basis of actual time worked. A ratio determined either by dividing the actual average time worked per day by the normal full-time day or by some other reasonable method was used to calculate the actual time worked.

**21.12(6) *Prior service credit for a set period of time.***

a. Effective July 1, 1990, prior service credit will be granted for those quarters in which covered wages were reported or if the custodian of the record certifies service.

b. Prior to July 1, 1990, full prior service credit was given for periods of employment which required the employee to be available for as much work as required, even though the employee may not have actually worked full-time. This includes the employment of town clerks, secretaries of school districts, school bus drivers and school lunch employees.

**21.12(7) *Prior service credit for school year.*** A public school teacher who worked full-time the entire school year shall be given a full year of prior service credit.

a. Effective July 1, 1990, if a member had covered wages reported in any quarter or the custodian of the record certifies service in any quarter, a full quarter of credit will be granted.

A teacher will receive credit for a full year in which three quarters of coverage are reported or three quarters of service are certified by the custodian of the records if the teacher had a contract for the following school year. IPERS may require the submission of a copy of that contract.

b. Prior to July 1, 1990, school employees may have received less than a full year's credit if they had reportable wages in fewer than four quarters.

**21.12(8) *Proof of prior service.***

a. A statement showing the inclusive dates of employment and the position(s) the member held shall be signed by the present custodian of those employment records. IPERS Form 507 or a statement containing similar information may be used for this purpose. This statement does not require notarization.

b. If an employment record is not available for any reason, notarized affidavits of two individuals having knowledge of the employment for which prior service credit is sought shall be submitted. IPERS Form 507-A or an affidavit containing similar information may be used.

c. Proof of prior service will be scrutinized to ensure that:

- (1) It refers to covered employment in Iowa;
- (2) It is signed by the proper authority;
- (3) It refers to the member in question;
- (4) The position held is one for which prior service credit can be given;
- (5) Any corrections, deletions, or additions in dates of service are initialed by the signer of the document;

(6) Anything on the reverse side of the form is taken into consideration; and

(7) Certification showing the highest gross wage earned in any 12 consecutive month period before July 4, 1953, refers to a period ending before that date. IOASI records may be used for verification of wages if necessary, and this information is noted on the face of IPERS Form 502, application for monthly retirement allowance.

d. Effective July 1, 1990, prior service will be credited by quarters. Service of less than a full quarter shall be rounded up to a full quarter. (Prior to July 1, 1990, the amount of prior service credit due on each proof of service was computed in years, months and days.)

e. If the custodian of the records cannot verify service before July 4, 1953, or if the member disputes the amount of time proven, IPERS may use any records available to supplement the member's proof.

**21.12(9) *Prior service credit for service before January 1, 1946.*** An active, vested or retired member who was employed prior to January 1, 1946, by an employer may file written verification of the member's dates of employment with IPERS and receive credit for years of prior service for the period of employment. However, a member who is eligible for or receiving a pension or annuity from a local school district for service prior to January 1, 1946, is not eligible to receive credit for the period of service upon which the pension or annuity is based. The member is responsible to obtain sufficient proof of service prior to January 1, 1946, as IPERS may require.

**21.12(10) *Membership service.*** A member shall receive membership service credit for service rendered after July 4, 1953. Service is counted to the complete quarter calendar year. A calendar year shall not include more than four quarters.

This rule is intended to implement Iowa Code sections 97B.41(12), 97B.43 and 97B.75.

### **581—21.13(97B) Calculation of monthly retirement benefits.**

**21.13(1)** If a member has four or more complete years of service credit in IPERS, a monthly payment allowance will be paid beginning with the first full month after the effective date of retirement. This allowance will be paid in accordance with the applicable paragraph of this rule and any option the member may elect pursuant to Iowa Code section 97B.51. IPERS shall determine on the applicable forms which designated fractions of a member's monthly retirement allowance payable to contingent annuitants shall be provided as options under Iowa Code section 97B.51(1). Any option elected by a member under Iowa Code section 97B.51 must comply with the requirements of the Internal Revenue Code that apply to governmental pension plans, including but not limited to Internal Revenue Code Section 401(a)(9). If a member has less than four complete years of service credit, the benefit receivable will be computed on a money purchase basis, with reference to annuity tables used by IPERS in accordance with the member's age. Benefits are not payable before the age of 55, except after July 1, 1990, in accordance with an early distribution in the case of retirement due to disability, as described in rule 581—21.22(97B).

**21.13(2) Reduction for early retirement.**

a. Effective July 1, 1988, a member's benefit formula will be reduced by one-quarter of 1 percent for each month the member's retirement precedes the normal retirement date, as defined in Iowa Code section 97B.45 excluding section 97B.45(4). The following are situations in which a member is considered to be taking early retirement:

(1) If a member is less than 65 years of age in the month of the member's retirement and has less than 30 years of service; or

(2) If a member is less than 62 years of age in the month of the member's retirement and has 30 years of service.

*b.* Effective July 1, 1986, a member who is at least the age of 62 and has at least 30 years of service may retire without application of an early retirement penalty. Effective July 1, 1988, a member who has at least 30 years of service, and whose years of service plus age in the month of the member's retirement equal or exceed 92, may retire without an early retirement penalty.

*c.* Effective July 1, 1990, a member shall be eligible to receive monthly retirement benefits with no age reduction effective the first of the month in which the member's age on the last birthday and the member's years of service equal or exceed 92, provided that the member is at least the age of 55.

*d.* Effective July 1, 1996, a member shall be eligible to receive monthly retirement benefits with no age reduction effective the first of the month in which the member's age on the last birthday and the member's years of service equal or exceed 90, provided that the member is at least the age of 55.

*e.* Effective July 1, 1997, a member shall be eligible to receive monthly retirement benefits with no age reduction effective the first of the month in which the member's age on the last birthday and the member's years of service equal or exceed 88, provided that the member is at least the age of 55.

*f.* Effective July 1, 1991, a member qualifying for early retirement due to disability under Iowa Code section 97B.50 shall not be subject to a reduction in benefits due to age.

**21.13(3)** A member's early retirement date shall be the first day of the month of the fifty-fifth birthday or any following month before the normal retirement date, provided that date is after the last day of service.

**21.13(4)** Members employed before January 1, 1976, and retiring after January 1, 1976, with four or more complete years of membership service shall be eligible to receive the larger of a monthly formula benefit equal to the member's total covered wages multiplied by one-twelfth of one and fifty-seven hundredths percent, multiplied by the percentage calculated in subrule 21.13(2), if applicable, or a benefit as calculated in subrule 21.13(6). See Iowa Code section 97B.49(1).

**21.13(5)** Members employed before January 1, 1976, who qualified for prior service credit shall be eligible to receive a monthly formula benefit of eight-tenths of one percent multiplied by each year of prior service multiplied by the monthly rate of the member's total remuneration during the 12 consecutive months of prior service for which the total remuneration was the highest, disregarding any monthly rate amount in excess of \$250, plus three-tenths of one percent of the monthly rate amount not in excess of \$250 for each year in which accrued liability for benefit payments created by the abolished system is funded.

**21.13(6)** Benefit formula.

*a.* For each active member retiring on or after July 1, 1982, with four or more complete years of service, the monthly benefit will be equal to one-twelfth of an amount equal to 50 percent of the five-year average covered wage multiplied by a fraction of years of service. For each active member retiring on or after July 1, 1986, with four or more complete years of service, the monthly benefit will be equal to one-twelfth of an amount equal to 50 percent of the three-year average covered wage multiplied by a fraction of years of service not to exceed one.

For each active or inactive vested member retiring on or after July 1, 1990, with four or more complete years of service, the monthly benefit will be equal to one-twelfth of an amount equal to 52 percent of the highest three-year average covered wage multiplied by a fraction of years of service not to exceed one.

*b.* For all active and inactive vested members, the monthly retirement allowance shall be determined on the basis of the formula in effect on the date of the member's retirement. If the member takes early retirement, the benefit shall be adjusted as provided in subrule 21.13(2).

c. Commencing July 1, 1991, IPERS shall increase the percentage multiplier of the high three-year average covered wage by an additional 2 percent each July 1 until reaching 60 percent, contingent upon the trust fund's ability to absorb these increases within existing contribution rates as defined in Iowa Code sections 97B.11 and 97B.49.

d. In keeping with the mandates specified by Iowa Code sections 97B.49(5) "b" and 97B.49(16) "a"(3), the following are the increases in the benefit formula put into effect by IPERS:

- Effective July 1, 1991—54%
- Effective July 1, 1992—56%
- Effective July 1, 1993—57.4%
- Effective July 1, 1994—60%

e. Effective July 1, 1996, in addition to the 60 percent multiplier identified above, members who retire with years of service in excess of their "applicable years" shall have the percentage multiplier increased by 1 percent for each year in excess of their "applicable years," not to exceed an increase of 5 percent. For regular members, "applicable years" means 30 years; for protection occupation members, "applicable years" means 25 years; for sheriffs, deputy sheriffs, and airport firefighters, "applicable years" means 22 years.

**21.13(7) Average covered wages.**

a. "Three-year average covered wage" means a member's covered calendar year wages averaged for the highest three years of the member's service. However, if a member's final quarter of a year of employment does not occur at the end of a calendar year, IPERS may determine the wages for the third year by computing the final quarter or quarters of wages to complete the year. The computed year wages shall not exceed the maximum covered wage in effect for that calendar year.

For members whose first month of entitlement is prior to January 1995, the final year will be computed as follows: Wages from the highest quarter or quarters not being used in the selection of the three highest years shall be combined with the final quarter or quarters of the member's service to create a final year. For members whose first month of entitlement is July 1992 through December 1994, if the final quarter of wages reduces the three-year average covered wage, the wages for that quarter will not be used. The member will receive credit for the quarter of service. If, however, the final quarter is the first quarter of a calendar year, the wages must be used in order to compute a year.

For members whose first month of entitlement is January 1995 or later, a full third year will be created when the final quarter or quarters reported are combined with a computed average quarter to complete the last year. The value of this average quarter will be computed by selecting the highest covered wage-year not used in the computation of the three high years and dividing the covered salary by four quarters. This value will be combined with the final quarter or quarters to complete a full calendar year. If the member's final quarter of wages will reduce the three-year average covered wage, it can be dropped from the computation. However, if the covered wages for that quarter are dropped, the service credit for that quarter will be forfeited as well. If the final quarter is the first quarter of a calendar year, those wages must be used in order to give the member a computed year. The three-year average covered wage cannot exceed the highest maximum covered wages in effect during the member's service.

If the three-year average covered wage of a member who retires on or after January 1, 1997, and before January 1, 2003, exceeds the limits set forth in paragraph "b" below, the longer period specified in paragraph "b" shall be substituted for the three-year averaging period described above. No quarters from the longer averaging period described in paragraph "b" shall be combined with the final quarter or quarters to complete the last year.

b. For the persons retiring during the period beginning January 1, 1997, and ending December 31, 2002, the three-year average covered wage shall be computed as follows:

(1) For a member who retires during the calendar year beginning January 1, 1997, and whose three-year average covered wage at the time of retirement exceeds \$48,000, the member's covered wages averaged for the highest four years of the member's service or \$48,000, whichever is greater.

(2) For a member who retires during the calendar year beginning January 1, 1998, and whose three-year average covered wage at the time of retirement exceeds \$52,000, the member's covered wages averaged for the highest five years of the member's service or \$52,000, whichever is greater.

(3) For a member who retires during the calendar year beginning January 1, 1999, and whose three-year average covered wage at the time of retirement exceeds \$55,000, the member's covered wages averaged for the highest six years of the member's service or \$55,000, whichever is greater.

(4) For a member who retires on or after January 1, 2000, but before January 1, 2003, and whose three-year average covered wage at the time of retirement exceeds \$55,000, the member's covered wages averaged for the highest seven years of the member's service or \$55,000, whichever is greater.

For purposes of this paragraph "b," the highest years of the member's service shall be determined using calendar years and may be determined using one computed year. The computed year shall be calculated in the manner and subject to the restrictions provided in paragraph "a."

**21.13(8) Initial benefit determination.**

*a.* The initial monthly benefit for the retiree will be calculated utilizing the highest three calendar years of wages that have been reported as of the member's retirement. When the final quarter(s) of wages is reported for the retired member, a recalculation of benefits will be performed by IPERS to determine if the "computed year" as described in Iowa Code section 97B.41(18) and 581 IAC 21.13(7), or the final calendar year, is to be used in lieu of the lowest of the three calendar years initially selected. In cases where the recalculation determines that the benefit will be changed, the adjustment in benefits will be made retroactive to the first month of entitlement. The wages for the "computed year" shall not exceed the highest covered wage ceiling in effect during the member's period of employment.

*b.* In cases where the member's final quarter's wages have been reported to IPERS prior to retirement, the original benefit will be calculated utilizing all available wages.

*c.* The option one death benefit amount cannot exceed the member's investment and cannot lower the member's benefit below the minimum distribution required by federal law.

**21.13(9) Minimum benefits.** Effective January 1, 1997, those members and beneficiaries of members who retired prior to July 1, 1990, and who upon retirement had years of service equal to or greater than 10, will receive a minimum benefit as follows:

*a.* The minimum benefit is \$200 per month for those members with 10 years of service who retired under option two. The minimum shall increase by \$10 per year or \$2.50 per each additional quarter of service to a maximum benefit of \$400 per month for members with 30 years of service. No increase is payable for years in excess of 30. The minimum benefit will be adjusted by a percentage that reflects option choices other than option two, and a percentage that reflects any applicable early retirement penalty.

*b.* In determining minimum benefits under this rule, IPERS shall use only the years of service the member had at first month of entitlement (FME). Reemployment periods and service purchases completed after FME shall not be used to determine eligibility.

*c.* The adjusted minimum benefit amount shall be determined using the option and early retirement adjustment factors set forth below.

1. The option adjustment factor is determined as follows:

|                 |      |
|-----------------|------|
| Option 1        | .94  |
| Option 2        | 1.00 |
| Option 3        | 1.00 |
| Option 4 (100%) | .87  |
| Option 4 (50%)  | .93  |
| Option 4 (25%)  | .97  |
| Option 5        | .97  |

2. The early retirement adjustment factor is determined as follows:

There is no early retirement adjustment if the member's age at first month of entitlement equals or exceeds 65, or if the member's age at first month of entitlement is at least 62 and the member had 30 or more years of service.

The early retirement adjustment for members having 30 years of service whose first month of entitlement occurred before the member attained age 62 is .25 percent per month for each month the first month of entitlement precedes the member's sixty-second birthday.

The early retirement adjustment for members having less than 30 years of service whose first month of entitlement occurred before the member attained age 65 is .25 percent per month for each month the first month of entitlement precedes the member's sixty-fifth birthday.

IPERS shall calculate the early retirement adjustment factor to be used in paragraph "d" below as follows: 100% - (minus) early retirement adjustment percentage = early retirement adjustment factor.

The early retirement adjustment shall not be applied to situations in which the member's retirement was due to a disability that qualifies under Iowa Code section 97B.50.

*d.* IPERS shall use the following formula to calculate the adjusted minimum benefit: unadjusted minimum benefit x (times) option adjustment factor x (times) early retirement adjustment factor = adjusted minimum benefit.

*e.* IPERS shall compare the member's current benefit to the adjusted benefit determined as provided above. If the member's current benefit is greater than or equal to the adjusted minimum benefit, no change shall be made. Otherwise, the member shall receive the adjusted minimum benefit.

**21.13(10)** Hybrid formula for members with more than one type of service credit.

*a. Eligibility.* Effective July 1, 1996, members having both regular and special service credit (as defined in Iowa Code sections 97B.41(16) and 97B.41(21)) shall receive the greater of the benefit amount calculated under this subrule, or the benefit amount calculated under the applicable nonhybrid benefit formula.

(1) Members who have a combined total of 16 quarters of service may utilize the hybrid formula.

(2) Members who have both types of special service under Iowa Code sections 97B.49(16) "a" and "b," but do not have any regular service, may utilize the hybrid formula.

(3) The following classes of members are not eligible for the hybrid formula:

1. Members who have only regular service credit.

2. Members who have 22 years of sheriff/deputy sheriff/airport firefighter service credit (as defined under Iowa Code section 97B.49(16) "b").

3. Members who have 25 years of protection occupation service credit (as defined in Iowa Code section 97B.49(16) "d").

4. Members who have 30 years of regular service.

5. Members with less than 16 total quarters of service.

*b. Assumptions.* IPERS shall utilize the following assumptions in calculating benefits under this subrule.

(1) The member's three-year average covered wage shall be determined in the same manner as it is determined for the nonhybrid formula.

(2) Increases in the benefit formula under this subrule shall be determined as provided under Iowa Code section 97B.49(17) "c"(2). The percentage multiplier shall only be increased for total years of service over 30.

(3) Years of service shall be utilized as follows:

1. Quarters which have two or more occupation class codes shall be credited as the class that has the highest reported wage for said quarter. A member shall not receive more than one quarter of credit for any calendar quarter, even though more than one type of service credit is recorded for that quarter.

2. Quarters shall not be treated as special service quarters unless the applicable employer and employee contributions have been made.

*c. Years of service fraction not to exceed one.*

(1) In no event shall a member's years of service fraction under the hybrid formula exceed, in the aggregate, one.

(2) If the years of service fraction does, in the aggregate, exceed one, the member's quarters of service credit shall be reduced until the member's years of service fraction equals, in the aggregate, one.

(3) Service credit shall first be subtracted from the member's regular service credit and, if necessary, shall next be subtracted from the member's protection occupation service, and sheriff/deputy sheriff/airport firefighter service credit, in that order.

*d. Age reduction.* The portion of the member's benefit calculated under this subrule that is based on the member's regular service shall be subject to a reduction for early retirement in the same manner as is provided for regular service retirements.

*e. Calculations.* A member's benefit under the hybrid formula shall be the sum of the following:

(1) The applicable percentage multiplier divided by 22 times the years of sheriff/deputy sheriff/airport firefighter service credit (if any) times the member's high three-year average covered wage, plus

(2) The applicable percentage multiplier divided by 25 times the years of protection occupation class service credit (if any) times the member's high three-year average covered wage, plus

(3) The applicable percentage multiplier divided by 30 times the years of regular service credit (if any) times the member's high three-year average covered wage minus the applicable age reduction (if any).

If the sum of the percentages obtained by dividing the applicable percentage multiplier by 22, 25, and 30 exceeds the applicable percentage multiplier for that member, the percentage obtained above for each class of service shall be subject to reduction so that the total shall not exceed the member's applicable percentage multiplier in the order specified in paragraph "c," subparagraph (3), of this subrule.

**21.13(11)** Money purchase benefits.

*a.* For each vested member retiring with less than four complete years of service, a monthly annuity shall be determined by applying the total reserve as of the effective retirement date (plus any retirement dividends standing to the member's credit on December 31, 1966) to the annuity tables in use by the system according to the member's age (or member's and contingent annuitant's ages, if applicable). If the member's retirement occurs before January 1, 1995, IPERS' revised 6.5 percent tables shall be used. If the member's retirement occurs after December 31, 1994, IPERS' 6.75 percent tables shall be used.

*b.* For each vested member for whom the present value of future benefits under option 2 is less than the member reserve as of the effective retirement date, a monthly annuity shall be determined by applying the member reserve to the annuity tables in use by the system according to the member's age (or member's and contingent annuitant's ages, if applicable). If the member's retirement occurs before January 1, 1995, IPERS' revised 6.5 percent tables shall be used. If the member's retirement occurs after December 31, 1994, IPERS' 6.75 percent tables shall be used.

*c.* For calculations under paragraph "*a*," the term "total reserve" means the total of the member's investment and the employer's investment as of the effective retirement date, plus any retirement dividends standing to the member's credit as of December 31, 1966. For calculations under paragraph "*b*," the term "member reserve" means the member's total investment, excluding all other amounts standing to the member's credit.

*d.* For calculations under paragraph "*a*," options 2, 3, 4, and 5 shall be calculated by dividing the member's total reserve by the applicable option 2, 3, 4, and 5 annuity factor taken from the department's tables to determine the monthly amount. For calculations under paragraph "*b*," options 2, 3, 4, and 5 shall be calculated by dividing the member reserve by the applicable option 2, 3, 4, and 5 annuity factor taken from the department's tables to determine the monthly amount.

*e.* For option 1, the cost per \$1,000 of death benefit shall be determined according to the department's tables. That cost shall be subtracted from the option 3 monthly amount to determine the option 1 monthly benefit amount. The option 1 death benefit amount shall be reduced as necessary so that the option 1 monthly benefit amount is not less than one-half of the option 2 monthly benefit amount.

*f.* If the member has prior service (service prior to July 4, 1953), the option 2 benefit amount calculated under both paragraphs "*a*" and "*b*" shall be calculated by determining the amount of the member's option 2 benefit based on the member's prior service and the applicable plan formula, plus the amount of the member's option 2 benefit based on the member's membership service as determined under this subrule. The option 2 benefit amount based on prior service shall be adjusted for early retirement.

This rule is intended to implement Iowa Code sections 97B.41(18), 97B.47, and 97B.49 to 97B.51.

**581—21.14(97B) Interest on accumulated contributions.**

**21.14(1)** The term interest as used in this rule means statutory interest plus the interest dividend. For calendar years prior to January 1, 1997, statutory interest is a credit to the accumulated contributions of active members and inactive vested members at a rate of 2 percent per annum. The interest dividend is a credit to the accumulated contributions of active members and inactive vested members which equals the excess of the average rate of interest earned on the retirement fund through investment during a calendar year over the statutory interest plus twenty-five hundredths of 1 percent. For calendar years beginning January 1, 1997, a per annum interest rate at 1 percent above the interest rate on one-year certificates of deposit shall be credited to the member's contributions and the employer's contributions to become part of the accumulated contributions. For purposes of this subrule, the interest rate on one-year certificates of deposit shall be determined by the department based on the average rate for such certificates of deposit as of the first business day of each year as published in a publication of general acceptance in the business community. The per annum interest rate shall be credited on a quarterly basis by applying one-quarter of the annual interest rate to the sum of the accumulated contributions as of the end of the previous calendar quarter.

**21.14(2)** If a member is vested upon termination, interest will continue to accrue through the month preceding the month of payment of the refund, or in the case of retirement benefits, through the month preceding the first month of entitlement. For periods ending prior to July 1, 1995, if a member is not vested upon termination, interest will cease to accrue on termination of covered employment for as long as the member remains inactive. For periods beginning July 1, 1995, interest will cease to accrue if a member is not vested upon termination of employment for as long as the member is inactive or nonvested. A member automatically becomes vested upon the attainment of age 55. Effective July 1, 1990, in the case of a member's death, interest shall be credited to a member's account until the month in which payment is made, unless IPERS determines that a dispute among alleged heirs exists, in which case the amount shall be placed in a non-interest-bearing account. Interest shall not be credited to a member's account if the wages were reported in error. Effective July 1, 1995, interest will be credited to an inactive nonvested member's account as provided in Iowa Code section 97B.70, beginning on the first date thereafter that such a member becomes vested as provided in Iowa Code section 97B.41(19).

This rule is intended to implement Iowa Code sections 97B.52, 97B.53 and 97B.70.

**581—21.15(97B) Forgery claims.** When a forgery of a warrant issued in payment of an IPERS refund or benefit is alleged, the claimant must complete and sign an affidavit before a notary public that the endorsement is a forgery. A supplementary statement must be attached to the affidavit setting forth the details and circumstances of the alleged forgery.

This rule is intended to implement Iowa Code sections 97B.40, 97B.52 and 97B.53.

**581—21.16(97B) Approved leave periods.**

**21.16(1)** A member's service is not deemed interrupted while a member is on approved leave of absence not exceeding 12 months or during the time a member is engaged during military service for which the member is entitled to receive credit under the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. Sections 4301 to 4333).

**21.16(2)** Reentry into public employment by an employee on military leave can be achieved if the individual accepts employment with a covered employer. Reemployment may begin anytime within 12 months of the individual's discharge from military service or, if longer, within the period provided under the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. Sections 4301 to 4333). Upon reemployment the member shall receive credit for all service to which the member is entitled pursuant to the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. Sections 4301 to 4333).

Notwithstanding any provision of Iowa Code chapter 97B or these rules to the contrary, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Internal Revenue Code Section 414(u).

For reemployments initiated on or after December 12, 1994, a member shall be treated as receiving compensation for each month during the member's period of military service equal to the member's average monthly compensation during the 12-month period immediately preceding the period of military service or, if shorter, the member's average monthly compensation for the period immediately preceding the period of military service. The member's deemed compensation during the period of military service shall be taken into consideration in determining a member's make-up contributions, if any, and the member's high three-year average covered wage.

For reemployments initiated on or after December 12, 1994, make-up contributions shall be permitted with respect to employee contributions that would have been made during the period of military service if the member had actually been in covered employment during the period earning the deemed compensation provided for under this subrule. Make-up contributions shall be permitted during the five-year period that begins on the date of reemployment or, if less, a period equal to three times the period of military service.

The member shall request the foregoing make-up contributions (except contributions for periods prior to January 1, 1995, which shall be made as posttax contributions) on forms to be filed with the employer, which shall forward a copy to the system. Make-up contributions shall be made as pretax contributions under Internal Revenue Code Section 414(h)(2). Employers must comply with a member's request to begin make-up contributions during a period not exceeding that described in the preceding paragraph and shall forward said amounts to the system in the same manner as provided for pick-up contributions under Iowa Code section 97B.11A. An election to make up employee contributions under this rule shall be irrevocable.